

# Court of Appeals, State of Michigan

## ORDER

Steve Johnston v Royal American Mortgage Inc

Docket No. 290591

LC No. 08-113688-CZ

Christopher M. Murray  
Presiding Judge

Kirsten Frank Kelly

Karen M. Fort Hood  
Judges

The Court orders that the motion for immediate consideration is GRANTED.

The motion to allow a supplement to the application is GRANTED.

In lieu of granting the delayed application, the Court orders, pursuant to MCR 7.205(D)(2), that the January 16, 2009, order of the Wayne Circuit Court denying defendants' motion to modify the preliminary injunction and imposing a constructive trust hereby is REVERSED IN PART insofar as it prohibited defendants from accessing specific assets received before the filing of the instant lawsuit and imposing a constructive trust. It is improper to prohibit a party's access to personal funds merely on the speculation that a judgment may be entered against that party. *Irwin v Meese*, 325 Mich 349, 351; 38 NW2d 869 (1949). The materials currently before this Court do not support the extraordinary remedy that was granted here, where plaintiffs have alternate legal remedies available. See *Kernen v Homestead Development Co*, 232 Mich App 503, 509; 591 NW2d 369 (1998). In all other respects, the application is DENIED. The case is REMANDED to the circuit court for further proceedings consistent with this order. This order is to have immediate effect, MCR 7.215(F)(2).

The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

APR 02 2009

Date

*Sandra Schultz Mengel*  
Chief Clerk